

E-filing

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4  
5 Attorneys for Plaintiff  
TIMOTHY BURCHER

6 **UNITED STATES DISTRICT COURT**  
7 **NORTHERN DISTRICT OF CALIFORNIA**

8  
9 TIMOTHY BURCHER;

10 Plaintiff,

11 CENTRAL PORTFOLIO CONTROL,  
INC.; DOES 1 through 10, inclusive;

12 Defendant.

13 Case No.: C12-4797 JSC

14 **COMPLAINT AND DEMAND FOR**  
**JURY TRIAL**

15 **(Unlawful Debt Collection Practices)**

16 **Demand Does Not Exceed \$10,000**

17 **COMPLAINT**

18 **I. INTRODUCTION**

- 19 1. This is an action for actual and statutory damages brought by Plaintiff,  
20 Timothy Burcher, an individual consumer, against Defendant, Central  
21 Portfolio Control, Inc., for violations of the Fair Debt Collection Practices  
22 Act, 15 U.S.C. § 1692 *et seq.* (hereinafter “FDCPA”), which prohibits debt  
23 collectors from engaging in abusive, deceptive, and unfair practices.

1  
II. JURISDICTION

2 2. Jurisdiction of this court arises under 15 U.S.C. § 1692k(d) and 28 U.S.C. §  
3 1337. Declaratory relief is available pursuant to 28 U.S.C. §§ 2201 and  
4 2202. Venue in this District is proper in that the Defendant transacts  
5 business here.  
6

7 III. PARTIES

8 3. Plaintiff, Timothy Burcher, is a natural person with a permanent residence in  
9 Antioch, Contra Costa County, California, 94509.  
10  
11 4. Upon information and belief the Defendant, Central Portfolio Control, Inc.,  
12 is a corporation engaged in the business of collecting debt in this state and in  
13 several other states, with its principal place of business located at 6640  
14 Shady Oak Road, Suite 300, Eden Prairie, Hennepin County, Minnesota  
15 55344. The principal purpose of Defendant is the collection of debts in this  
16 state and several other states, and Defendant regularly attempts to collect  
17 debts alleged to be due another.  
18  
19 5. Defendant is engaged in the collection of debts from consumers using the  
20 mail and telephone. Defendant regularly attempts to collect consumer debts  
21 alleged to be due to another. Defendant is a “debt collector” as defined by  
22 the FDCPA, 15 U.S.C. § 1692a(6).  
23  
24  
25

IV. FACTUAL ALLEGATIONS

6. The debt Defendant is attempting to collect on is an alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance or services which are the subject of the transaction are primarily for personal, family, or household purposes, whether or not such obligation has been reduced to judgment.
7. Within one (1) year preceding the date of this Complaint, Defendant, in connection with the collection of the alleged debt, contact Plaintiff and threatened to sue Plaintiff if a payment of 10% of the balance was not made right away.
8. Defendant has no standing to commence legal proceedings on behalf of the creditor.
9. Defendant is a debt collection company and as a debt collection company attempting to collection an alleged debt, Defendant can only refer the matter back to the creditor with a recommendation that the original creditor attempt legal proceedings.
10. The representations made to Plaintiff by Defendant regarding legal proceedings were false.
11. Within one (1) year preceding the date of this Complaint and during the first thirty (30) days of communicating with Plaintiff, Defendant, in connection

1 with the collection of the alleged debt, demanded payment on the alleged  
2 debt and thereby overshadowed the Plaintiff's right to dispute the validity of  
3 the debt.

4 12. Within one (1) year preceding the date of this Complaint, Defendant, in  
5 connection with the collection of the alleged debt, told Plaintiff, "Oh, just  
6 shut up."

7 13. The natural consequences of Defendant's statements and actions was to  
8 unjustly condemn and vilify Plaintiff for his non-payment of the debt he  
9 allegedly owed.

10 14. The natural consequences of Defendant's statements and actions was to  
11 produce an unpleasant and/or hostile situation between Defendant and  
12 Plaintiff.

13 15. The natural consequences of Defendant's statements and actions was to  
14 cause Plaintiff mental distress.

15 16. Defendant utilized unfair and unconscionable means to collect on Plaintiff's  
16 alleged debt, by lying to and misleading Plaintiff and speaking to him in an  
17 offensive and verbally abusive manner.

18 **V. CLAIM FOR RELIEF**

19 20 21 22 23 24 25 17. Plaintiff repeats and realleges and incorporates by reference to the foregoing  
paragraphs.

1  
2 18. Defendants violated the FDCPA. Defendants' violations include, but are not  
3 limited to, the following:

- 4 (a) Defendant violated §1692d of the FDCPA by engaging in conduct  
5 the natural consequences of which is to harass, oppress, or abuse  
6 any person in connection with the collection of an alleged debt;  
7 and  
8
- 9 (b) Defendant violated §1692d(2) of the FDCPA by using obscene or  
10 profane language or language the natural consequences of which is  
11 to abuse the hear or reader in connection with the collection of an  
12 alleged debt; and  
13
- 14 (c) Defendant violated §1692e of the FDCPA by using a false,  
15 deceptive, or misleading representation or means in connection  
16 with the collection of the alleged debt; and  
17
- 18 (d) Defendant violated §1692e(5) of the FDCPA by threatening to take  
19 action that the Defendant does not intend to take and/or the  
20 Defendant cannot legally take; and  
21
- 22 (e) Defendant violated §1692e(10) of the FDCPA by using false  
23 representation or deceptive means in connection with the collection  
24 the alleged debt; and  
25

(f) Defendant violated §1692f of the FDCPA by using unfair or unconscionable means in connection with the collection of an alleged debt; and

(g) Defendant violated §1692g(b) of the FDCPA by overshadowing or being inconsistent with the disclosure of the consumer's rights to dispute the debt or request the name and address of the original creditor.

19. Defendant's acts as described above were done intentionally with the purpose of coercing Plaintiff to pay the alleged debt.

20. As a result of the foregoing violations of the FDCPA, Defendant is liable to the Plaintiff, Timothy Burcher, for declaratory judgment that Defendant's conduct violated the FDCPA, actual damages, statutory damages, and costs and attorney fees.

WHEREFORE, Plaintiff respectfully requests that judgment be entered against Defendant, Central Portfolio Control, Inc., for the following:

- A. Declaratory judgment that Defendant's conduct violated the FDCPA.
  - B. Actual damages.
  - C. Statutory damages pursuant to 15 U.S.C. § 1692k.
  - D. Costs and reasonable attorney fees pursuant to 15 U.S.C. § 1692k.

- 1  
2 E. Awarding Plaintiff any pre-judgment and post-judgment interest as  
3 may be allowed under the law.  
4  
5 F. For such other and further relief as the Court may deem just and  
6 proper.

7  
8 RESPECTFULLY SUBMITTED,  
9

10 DATED: **PRICE LAW GROUP APC**  
11 September 07, 2012

12 By: \_\_\_\_\_  
13

G. Thomas Martin, III  
14 Attorney for Plaintiff  
15

**DEMAND FOR JURY TRIAL**

16 PLEASE TAKE NOTICE that Plaintiff, TIMOTHY BURCHER, demands  
17 trial by jury in this action.  
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